

Department of Marine Resources
NOTICE OF AGENCY EMERGENCY RULE-MAKING

CHAPTER # & TITLE: Chapter 11.10(H)(1) Atlantic Sea Scallop Limitations, Closed Areas

CONCISE SUMMARY: The Commissioner adopts this emergency rulemaking for the implementation of six conservation closures to protect Maine's scallop resource due to the risk of unusual damage and imminent depletion of the scallop resource. A public hearing will be held in the affected area if requested of the Commissioner in writing by 5 persons. The hearing will be held within 30 days of the Commissioner receiving the written requests.

EFFECTIVE DATE: Wednesday, February 4, 2009

To ensure consideration, comments must include your name and the organization you represent, if any. Please be aware that any risk of non-delivery associated with submissions by fax or e-mail is on the sender.

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Adopted emergency regulations: Chapter 11 Scallops

11.10 Atlantic Sea Scallops Limitations

1. Size, Harvesting and Conservation Zone Regulations

H. Closed Areas

It shall be unlawful to fish for or take scallops by any method within any of the following areas.

Transiting exception:

Any vessel possessing scallops onboard, may transit these closed areas, only if the vessel has all fishing gear (dredges, drags) securely stowed. Securely stowed shall mean the main wire shall not be shackled or connected to the dredges or drags, and the towing swivel will be at block or on the winch.

(1) Southern Closure:

Western Boundary: The Maine/New Hampshire Border to the 3-mile limit, as identified on National Oceanographic and Atmospheric Administration nautical charts, hereafter referred to as the 3-mile limit.
Eastern Boundary: A line drawn from Wood Island Light 180° magnetic south to the three-mile limit.

(2) Casco Bay Closure:

Western Boundary: A straight line from Active Light Two Lights Cape Elizabeth through C "1" East Hue & Cry (43°31.9N Latitude, 70°08.8W Longitude), continuing due south 180° magnetic to the three mile limit.
Eastern Boundary: Beginning at Newbury Point in Small Point Harbor, Phippsburg, then proceeding SSW to N"2", then proceeding SSE to "2BH", then proceeding due south 180° magnetic to the 3 mile limit.

(3) Western Penobscot Closure:

Western Boundary: Beginning at Marshall Point, Port Clyde, due south 180° magnetic to the three-mile limit.
Eastern Boundary: Tip of the Cape, Cape Rosier, thence SW to the PB (Penobscot Bay) Buoy, thence southerly to the TB1 whistle southwest of Junken Ledge, thence southeasterly to Red Nun #10 buoy at Foster Ledges, thence due south 180° magnetic to the 3-mile limit.

(4) Mt. Desert Closure:

Western Boundary: Beginning at Bass Harbor Head thence due SE to the southernmost end of Great Duck Island, then due south 180° magnetic to the three-mile limit.
Eastern Boundary: Beginning at Schoodic Point thence due south 180° magnetic to the three-mile limit.

(5) Jonesport/Beals Closure:

Western Boundary: Beginning at the following location on Moose Neck (44°29.82N Lat., 67°43.08W Lon.) thence due south 180° magnetic to the three-mile limit.
Eastern boundary: Beginning at the most eastern point on Kelly Point to the most NW Point of Head Harbor Island, thence southerly to Brim Cove Point located on Steele Harbor Island, thence continuing south to Moose Peak Light, then due south 180° magnetic to the three-mile limit.

(6) Eastern Closure:

Western boundary: Beginning at Western Head thence due south 180° magnetic to the three-mile limit.
Eastern boundary: The United States/Canada Border to the 3-mile limit, as identified on National Oceanographic and Atmospheric Administration nautical charts, including all of Cobscook Bay.

This regulation, Chapter 11.10(H), expires May 1, 2009.

Basis Statement

Chapter 11.10(H)(1) Atlantic Sea Scallop Limitations, Closed Areas, Emergency regulations

The Commissioner hereby enacts an emergency closure of Maine's scallop fishery due to the risk of unusual damage and imminent depletion of the scallop resource.

Justification:

Maine scallop landings have declined precipitously from a peak of nearly 4 million pounds in 1980-1981 to less than a half million pounds each year since 2001 (see landings figure). DMR began a dredge-based fishery-independent survey of the state scallop resource in 2002. Coast wide surveys in 2002 and 2003 found the resource to be healthiest in Cobscook Bay and small portions of eastern Maine, with patchy and poor abundance along the rest of the coast. 2006 and 2007 surveys indicated Cobscook Bay had by far the highest scallop density in the state; it is the only area exhibiting relatively high scallop production in recent years. Because of this relative abundance, the fishery in Cobscook Bay has been intensive with over 100 boats participating in some years.

DMR increased its port sampling effort during the 2007/2008 fishing season to gather information on catch per unit effort and size of scallop meats landed (see port sampling figures, n = number of boats surveyed). In December of 2007, most boats in Cobscook Bay caught their 135 lb. daily limit throughout first three weeks of the fishery, with catches dropping off sharply by January. In December of 2008 the decline came far more rapidly; before the end of the first week fewer than half the boats were reaching their limit. Although the chart here suggests an increase in boats catching their limit in the third week of the season, this is likely due to the small number of boats (2) sampled.

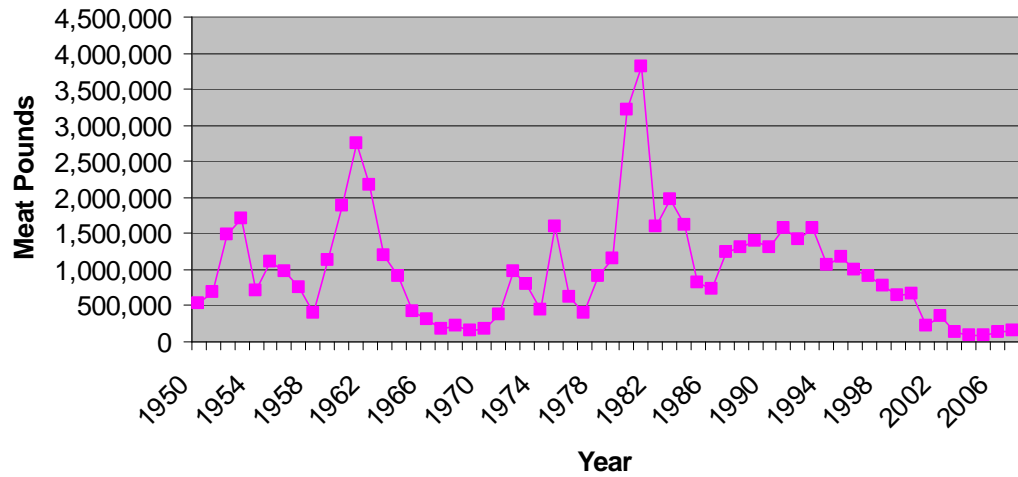
By early December 2008, Marine Patrol and fishermen interviews indicated the fishing was so poor many fishermen had "given up" fishing in Cobscook Bay. Anecdotal information suggests much of what is left in Cobscook Bay is sublegal. This is supported by 2007 survey data, which showed the largest abundance of seed ever surveyed, a 109% increase over 2006. If allowed to mature, this seed should recruit to the fishery between 2010 and 2011. However continued fishing pressure may threaten this potential recruitment.

Survey results from 2005 to 2006 indicate a significant decline in scallop abundance in most coastal Maine Areas. In western Maine, overall scallop abundance declined by an average of more than 50% between 2003 and 2005. Eastern Maine populations are also declining, with an overall drop between 2003 and 2006. The 2008 survey examined the eastern Maine coast outside of Cobscook Bay. Although the results have not yet been analyzed, observations indicate scallop abundance remains patchy and very low.

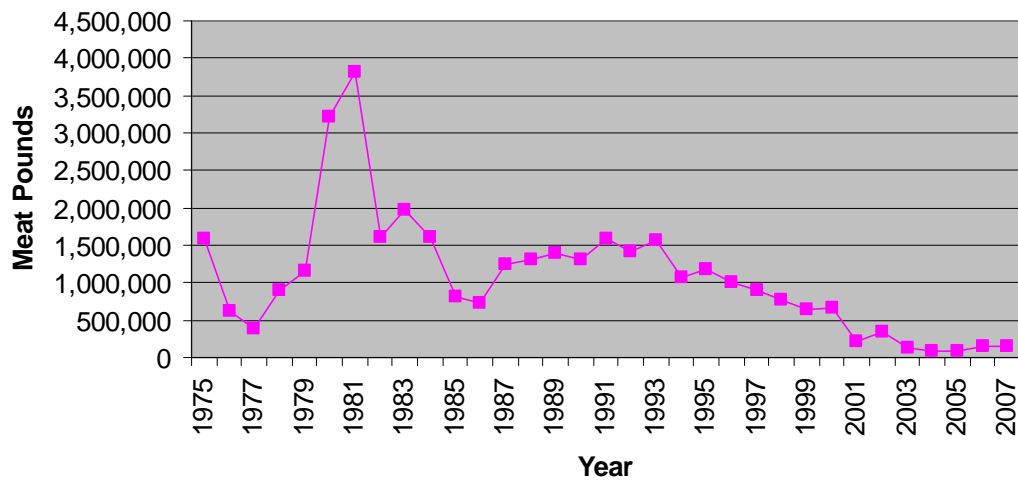
Scallop populations throughout the state, including Cobscook Bay, are at extremely low levels. The Department is concerned that unrestricted harvesting during the remainder of the 2008/2009 fishing season may deplete a severely diminished resource beyond its ability to recover. Continued harvesting may damage sublegal scallops that could be caught during subsequent fishing seasons, as well as reducing the broodstock essential to a recovery. Significant immediate conservation closures are necessary to reduce the risk of unusual damage and imminent depletion. For this reason, the Commissioner has enacted the emergency closures outlined below to protect Maine's scallop resource from unusual damage and imminent depletion.

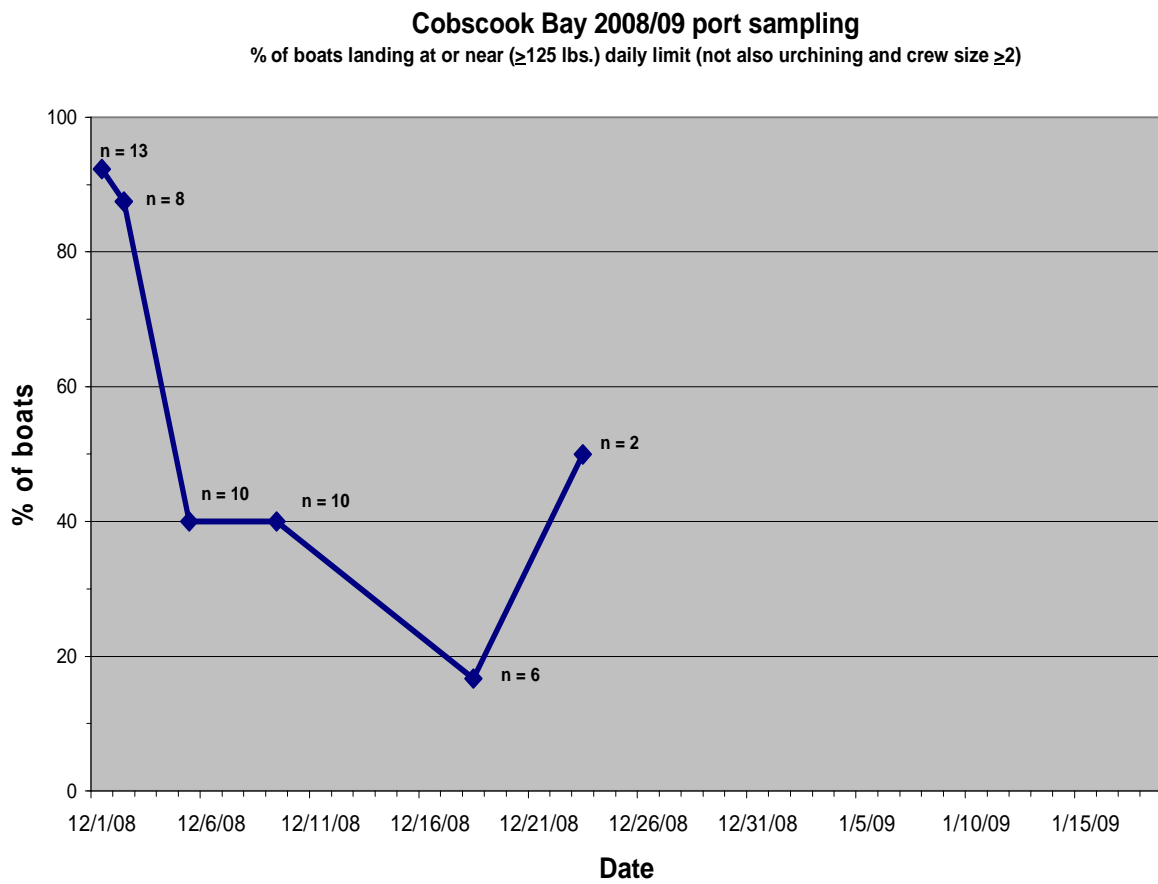
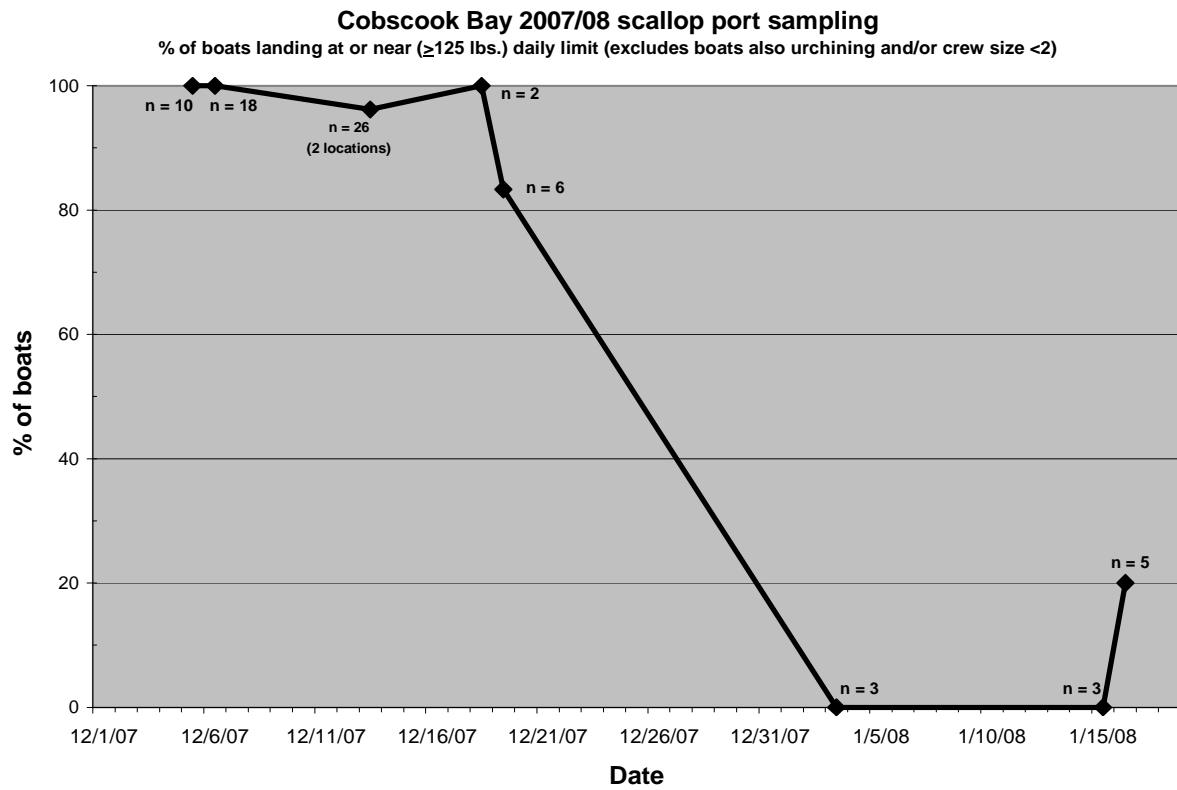
The Commissioner hereby adopts an emergency closure of Maine's scallop fishery due to the risk of unusual damage and imminent depletion of the scallop resource. As authorized by [12 M.R.S.A. §§6171, 6171\(3\) and 6192\(4\)](#) the Commissioner of Marine Resources adopts this emergency regulation.

Maine Reported Scallop Landings, 1950 - 2007



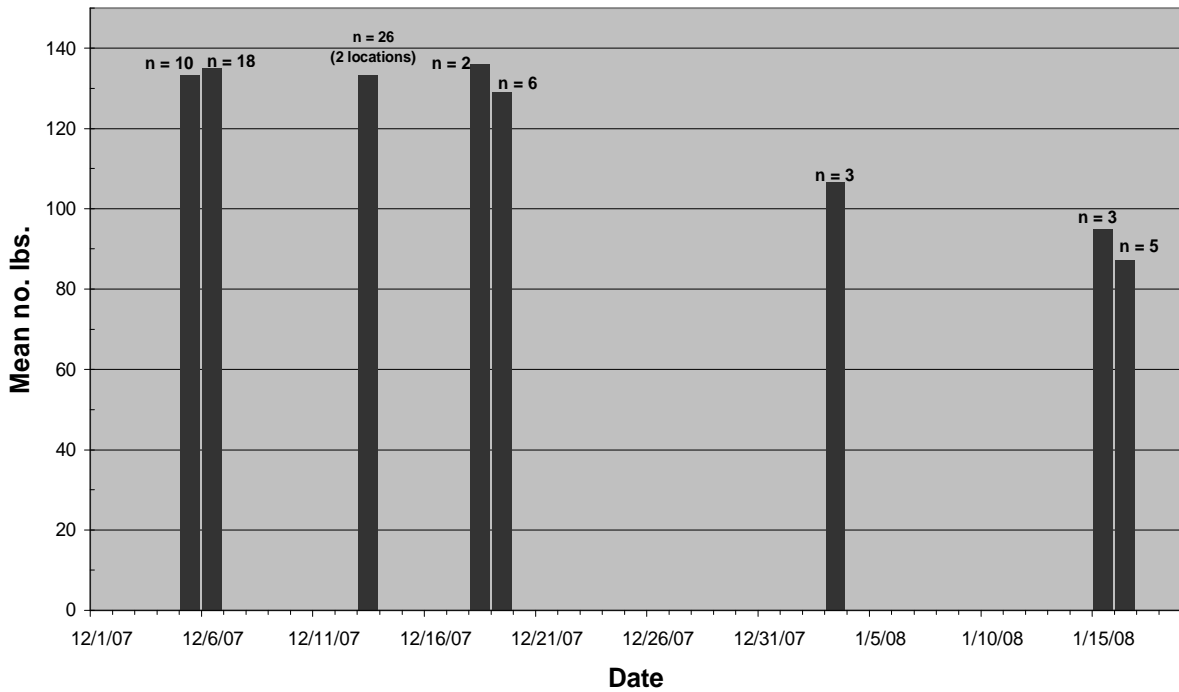
Maine Reported Scallop Landings, 1975-2007





Cobscook Bay 2007/08 scallop port sampling

Mean no. lbs. landed (excludes boats also urchining and/or crew size <2)



Cobscook Bay 2008/09 scallop port sampling

Mean no. lbs. landed (excludes boats also urchining and/or crew size <2)

